

# **SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD**

## **EXECUTIVE OFFICER'S REPORT**

**July 14, 2004**

### **PART A**

#### **SAN DIEGO REGION STAFF ACTIVITIES** *(Staff Contact)*

No items in Part A this month.

### **PART B**

#### **SIGNIFICANT REGIONAL WATER QUALITY ISSUES**

1. Sanitary Sewer Overflows (SSO) *(Charles Cheng, David Hanson, Bryan Ott, Victor Vasquez)*  
*(Attachment B-1)*

From June 1 to June 30, 2004, there were 22 sanitary sewer overflows (SSO's) from publicly-owned collection systems reported to the Regional Board office; 10 of these spills reached surface waters or storm drains of which none resulted in closure of recreational waters. Of the total number of overflows from public systems, eight were 1,000 gallons or more.

Six sewage overflows from private property in June were also reported; none of these overflows was 1,000 gallons or more; three reached surface waters or storm drains; and none resulted in closure of recreational waters.

The combined total volume of reported sewage lost from all collection systems for the month of June was 115,416 gallons. The single largest SSO occurred on June 25 from the Rainbow MWD sewage collection system (63,000 gallons).

Once all quarterly reports for the 2003-2004 fiscal year are received, staff will report on the annual 03-04 statistics and the downward trend of sewage discharges in the past 4 years.

No rainfall was recorded at San Diego's Lindbergh Field in June 2004. For comparison, in May 2004, only a trace of rainfall was recorded, and 23 public SSO's were reported. Also for comparison, in June 2003, only a trace of rainfall was recorded and 22 public SSO's were reported.

Attached is a table entitled "Sanitary Sewer Overflow Statistics," updated through June 30, 2004, which contains a summary of all sanitary sewer overflows (by FY) from each agency since FY 2000-01. From July 1, 2003 through June 30, 2004, approximately 133 billion gallons of sewage was conveyed through the Region's sewage collection systems of which approximately 8.2 million gallons was spilled (0.0066%).

For additional information on SSO's in FY 2002-2003 see the table entitled "Public SSO Statistics Summary for FY 2002-2003 (July 1-June 30)" attached to the February 2004 Executive Officer's Report (available on the Regional Board's website [www.swrcb.ca.gov/rwqcb9](http://www.swrcb.ca.gov/rwqcb9)).

Three Notices of Violation (NOV) for SSO's and one Request for Technical Information were issued during the month of June 2004.

***City of Oceanside, NOV No. R9-2004-0228***

The City of Oceanside (City) notified this office of the following sanitary sewer overflows:

- An 875-gallon overflow (SSO) that occurred on February 26, 2004 from a manhole in the City's wastewater collection system located at 300 Garrison Street. The City reported that the overflow was caused by high wastewater flows in that part of the collection system due to infiltration. The City reported that a SCADA monitoring module had also failed and did not detect the high flows. This overflow reached Loma Alta Creek and the Pacific Ocean and resulted in closure of ocean recreational waters adjacent to Buccaneer Beach to prevent public contact with waters that were impacted by the overflow.
- A 500-gallon overflow (SSO) that occurred on February 28, 2004 from a manhole in the City's wastewater collection system located at 322 Garrison Street. The City reported that the overflow was caused by a blockage in the sewer line. This overflow reached Loma Alta Creek and the Pacific Ocean and extended the closure of ocean recreational waters adjacent to Buccaneer Beach to prevent public contact with waters that were impacted by this overflow and the overflow on February 26, 2004.

***City of Vista, NOV No. R9-2004-0229***

The City of Vista (City) notified this office of a 7,400-gallon sanitary sewer overflow (SSO) that occurred on February 26, 2004 from the City's Raceway pump station located at 2689 South Melrose Drive. The City reported that the Raceway station overflowed because of high wastewater flows caused by infiltration at another City pump station which discharges to the same force main as the Raceway pump station. The City reported that the overflow was contained in an unlined retention basin adjacent to the Raceway pump station, which prevented the overflow from reaching a creek tributary to Agua Hedionda Creek.

***City of Laguna Beach, NOV No. R9-2004-0231***

The City of Laguna Beach (City) notified this office of a 500-gallon overflow from the City's wastewater collection system at the Miller's Lift Station at 100 Rockledge that occurred on April 7, 2004. The City reported that this overflow occurred due to a force main break at the pump station. The City reported that the overflow reached the Pacific Ocean and resulted in closure of ocean recreational waters adjacent to a short section of

Rockledge Beach to prevent public contact with waters that were impacted by the overflow.

***Valley Center Municipal Water District, Request for Technical Information***

The Valley Center Municipal Water District (District) notified this office of a 26,650-gallon sanitary sewer overflow that occurred on April 5, 2004 from the District's wastewater collection system near Champagne Boulevard south of Old Castle Road near Bonsall. The District reported that this overflow occurred due to a sewer line break caused by a magnitude 3.5 earthquake. The District reported that the overflow occurred within the dry bed of Moosa Creek where it percolated into the ground. The District reported that no other surface waters were impacted. Because of the nature of the reported cause of this SSO, determination of whether this SSO is a violation of Order No. 96-04 is pending until after receipt and review of requested information.

**2. Clean Water Act Section 401 Water Quality Certification Actions Taken in June 2004**  
(Stacey Baczkowski)

Section 401 of the Clean Water Act requires that any person applying for a federal permit or license which may result in a discharge of pollutants into waters of the United States, must obtain a state water quality certification that the activity complies with all applicable water quality standards, limitations, and restrictions. The majority of project applications are submitted because the applicant is also applying for a section 404 permit from the Army Corps of Engineers, and propose filling or armoring of creeks and streams.

Public notification of pending 401 Water Quality Certification applications can be found on our web site at: <http://www.swrcb.ca.gov/rwqcb9/programs/401cert.html>.

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION/WATERBODY	CERTIFICATION ACTION <sup>1</sup>
6/8/04	Rock Springs Condos	Rock Springs Road Condominium Subdivision Project	Construct 29 attached residential condominium units on 2.88 acres in the City of San Marcos. (Escondido Creek H.A.)	Conditional
6/8/04	Pacifica Enterprises Island Realty, L.L.P.	Pacifica Palomar Improvements Project	Construct a 120,000 square foot, three story office building with above and below-ground parking spaces. Improvements to Laurel Tree Road with the installation of a 140'x65' triple box culvert. (Encinas H.A.)	Conditional
6/15/04	City of San Clemente	San Clemente Beach Replenishment Program	Place a maximum of 300,000 cubic yards of beach-quality material per year on four city beach fill sites. (Pacific Ocean)	Conditional

6/15/04	Fallbrook Development	Dougherty Grove Project	Construct 28 single family residential lots with associated landscaping, driveways and private streets on approximately 22 acres. (Ysidora H.A.)	Conditional
6/16/04	Daniel P. Sink, Trustee; Depasquale Family Partnership	Tentative Tract No. 30155, Amendment No. 2	Construct 240 single family lots and four detention basins on 75 acres. (Murrieta H.A.)	Withdrawn
6/16/04	City of San Diego, Transportation Department	6496 Cowles Mtn Blvd Channel Maintenance Project	Removal of vegetation, silt, rocks & debris from drainage channel, installation of rip-rap, and construction of a concrete access ramp. (San Diego H.A.)	Withdrawn at applicants request
6/17/04	County Of San Diego, Department of Public Works	Viejas Boulevard Bridge Replacement Project	Replacement of a structurally deficient bridge over the Sweetwater River to accommodate the 100-year flood and improve traffic safety. (Descanso H.A.)	Withdrawn
6/17/04	Pardee Construction Company	Penasquitos West	Construct 113 residential units and related flood control structure. (Miramar Reservoir H.A.)	Withdrawn
6/21/04	Arnold Gieseler	Elevado Tentative Parcel Map	Four lot residential development with 16 foot private road crossing over unnamed tributary. (Lower San Luis Rey H.A.)	Withdrawn
6/21/04	City of San Diego, Water & Wastewater Facilities	Alvarado Trunk Sewer Project	Realignment of the existing sewer line in Alvarado Canyon. The work entails construction of several new sewer lines totaling over 2,500 feet in length, a new junction structure to replace an existing manhole, and removal or abandonment of several existing sewer lines. (Mission San Diego H.S.A.)	Withdrawn
6/23/04	John C. Altman	San Elijo Ridge	Construction of a 129 unit residential development (Carlsbad H.A.)	Conditional
6/24/04	Talega Associates, LLC	Cristianitos Off-Line Detention Basin	Construction of the Cristianitos off-line detention basin to improve water quality and reduce scour in downstream reaches of the San Mateo watershed. (San Mateo Canyon H.A.)	Conditional

<sup>1</sup> Low impact certification is issued to projects that have minimal potential to adversely impact water quality. Conditional certification is issued to projects that have the potential to adversely impact water quality, but by complying with technical conditions, will have minimal impacts. Denials are issued when the projects will adversely impact water quality and suitable mitigation measures are not proposed or

possible. Time expired refers to projects that may proceed due to the lack of an action by the Regional Board within specified regulatory timelines. Withdrawn refers to projects that the applicant or Regional Board have withdrawn due to procedural problems that have not been corrected within one year.

Correction to May 2004 Executive Officer's Report: Hines Nurseries was incorrectly reported as receiving a conditional certification for a pipeline crossing under Rainbow Creek. Certification is still pending for this project.

3. San Diego County Municipal Storm Water Permit Reissuance Analysis Summary (*Phil Hammer*) (*Attachment B-3*)

In May 2004, the Regional Board released for public comment the report titled "Draft San Diego County Municipal Storm Water Permit Reissuance Analysis Summary" (Draft Report). The purpose of this Draft Report is to identify the Regional Board's preferred municipal storm water permitting approach for the next municipal separate storm sewer system (MS4) permit. The Draft Report describes the Regional Board's initial preferred permitting approach and outlines the planning process that was undertaken to identify the preferred permitting approach.

At the request of several of the Regional Board members, additional background information was developed as support for the Draft Report. This background information was originally used as rough draft worksheets by the Regional Board during its analysis of permitting approaches for the next MS4 permit. These rough draft worksheets have been edited into a coherent form and are meant to provide a better understanding of the Draft Report's analysis, conclusions, and recommendations. This additional background information to the Draft Report was released for public comment in June 2004. Both the original Draft Report and the additional background information are attached (Attachment B-3a).

The Regional Board received relatively few comments on the Draft Report and additional background information. These comments are provided as Attachment B-3b. The majority of the comments received have been supportive of the preferred permitting approach identified by the Regional Board, though some comments appear to reflect a desire to maintain the current permitting approach. None of the comments have been found to warrant changes to the Draft Report at this time.

It is anticipated that the preferred permitting approach identified in the Draft Report will serve as a starting point, which will focus the efforts of the Regional Board and stakeholders during the reissuance process. In the coming months, the Regional Board will be outlining the reissuance process it envisions using to develop and adopt the next San Diego County MS4 permit.

4. Grants Update (*Dave Gibson*) (*Attachment B-4*)

**2003 Consolidated Grants Program Update**

On June 17, 2004, the State Water Resources Control Board (SWRCB) adopted Resolution No. 2004-0035 approving projects and authorizing issuance of grants and amendments to implement the 2003 Consolidated Watershed Protection, Watershed Management, Drinking Water Quality, and Nonpoint Source Pollution Control Grants (Consolidated Grants). Three projects in the San Diego Region were included in this authorization. Grant Agreements for these projects will be completed by September 2004. The final San Diego Region project from the Consolidated Grants program remaining to be authorized is a federal Clean Water Act section 319(h) project for Rainbow Creek TMDL implementation. The 319(h) projects proposed in the Consolidated Grants program will be considered by the SWRCB in a workshop on July 7, 2004 and a Board hearing on July 22, 2004.

**San Diego Region Project Audit**

The Department of Finance Office of State Audits and Evaluations performed an audit of a Proposition 13 grant awarded to the San Diego County Water Authority (CWA). This is the first audit performed on a San Diego region Proposition 13 grant. The grant (Contract No. 00-141-250) was awarded to the CWA in 2000 to conduct environmental and engineering studies for the San Diego Regional Conveyance Facility. The audit covering the interim period of October 1, 2000 to April 18, 2002 did not find any instances of non-compliance or issues of concern.

**Status of Phase I and Phase II Proposition 13 Grant Funded Projects**

As previously reported, most of the projects funded under the first two rounds of Proposition 13 funding are on schedule. Two projects, however, continue to be significantly behind schedule. The Orange County Public Facilities and Resources Department Munger Storm Drain Filtration project (Contract No. 02-117-559-0) has started to make progress towards timely completion. The County Project Director is working with the Regional Board to ensure that no additional delays hamper the completion of the project.

The Otay River Watershed Management Plan project (Contract No. 02-036-259-0), however, remains significantly behind schedule with less than 5% of funds invoiced after 24 out of 32 months of the contract term. One of the chief concerns regarding this project has to do with ensuring that the public has the opportunity to fully participate in the process of developing the watershed management plan. Although, a stakeholder meeting was held on June 22, 2004 and another is scheduled for July 7, 2004, it is not clear that, with only 8 months remaining, the project can be completed on schedule and still provide for meaningful stakeholder participation and public review and discussion of the watershed management plan documents. The Regional Board is concerned that after several communications with the grantee (County of San Diego Department of Planning and Land Use) about the need to expedite work and ensure ample public participation, two additional months have passed without significant progress. During this time, important meetings have been poorly announced, and key documents have not been

distributed for public review and comment or presented for discussion at the stakeholder meeting. The Regional Board will continue to address these concerns with the County.

**Financial Assistance Application Submittal Tool (FAAST)**

The Regional Board is participating in the testing of an innovative, web-based grant application tool for the Division of Financial Assistance. The Financial Assistance Application Submittal Tool (FAAST) will provide potential grant applicants with an effective and efficient means of application submittal throughout the different application phases of the Request for Proposals process. The system will also provide the functionality to facilitate simultaneous proposal review process by multiple state and federal agencies.

Applicants will be able to obtain discrete PINs, and submit applicant and project information via the Internet in a variety of formats, be able to store, view, update, and retrieve their stored information. FAAST will include adequate security measures to allow applicants to only modify their own information. FAAST will be configured to allow proposal reviewers to enter detailed narrative analysis, ratings and/or scores via the Internet using an entry form. Each proposal will have multiple technical reviewers, which can include State Board, Regional Board, other agencies and outside stakeholder groups. Technical reviews are to be performed and submitted independently by each reviewer. The system will be available for public review by August 3 and will be used in the Proposition 50 and federal 319(h) grant Request for Proposals in late 2004.

**Update on the Prevailing Wage Issue**

The Senate and Assembly have both approved amended versions of AB 2690. The legislation is currently in the Assembly and concurrence in Senate amendments pending. The bill may be considered on or after July 3rd pursuant to Assembly Rule 77. As passed by the both Houses, the legislation provides definitions for "volunteer" and "volunteer coordinators" and establishes criteria to define volunteer service in public works projects. AB 2690 also includes a provision to apply these definitions retroactively to otherwise covered work concluded on or after January 1, 2002. The amendments made in the Senate included an expiration date of January 1, 2009, modification of definition of Volunteer Coordinator, and an immediate start as an urgency statute.

**Proposition 50 Grant Programs**

The draft guidance for the Proposition 50 Agriculture Water Quality Grant Program (AWQP) was released in May. The deadline for public comments was June 25, 2004. The revised guidelines will be released the week of July 19. The SWRCB will hold a public hearing on the revised guidelines on August 4 and consider adoption of the guidelines at a meeting on August 26. This grant program provides approximately \$45 million for projects that will reduce the effects of discharge and runoff from irrigated agricultural land to waters of the State. Eligible projects include those that: 1) will improve water quality derived from irrigated crop lands through implementation of management practices, monitoring, demonstration projects, research, education and outreach; 2) will reduce pollutants in agricultural drainage through water reuse, integrated

management, or treatment; and 3) are eligible to provide matching funds for federal agricultural water quality grant programs. In addition, all projects funded through the AWQCP must be consistent with applicable adopted local watershed management plans where they exist, and SWRCB and RWQCB Plans and Policies.

The Proposition 50 Integrated Regional Water Management Program (IRWM) draft guidelines have been released for preliminary review prior to public release on July 30, 2004. The Regional Board will submit comments on Friday July 9, 2004. Projects proposed for IRWM grant funding must be consistent with an adopted IRWM plan designed to improve regional water supply reliability, water recycling, water conservation, water quality improvement, storm water capture and management, flood management, recreation and access, wetlands enhancement and creation, and environmental and habitat protection and improvement. The draft IRWM Plan standards were released on June 25, 2004 (Attachment B-4).

Collectively, the IRWM grant program will make 381 million dollars available through the SWRCB and DWR for competitive grants for projects to protect communities from drought, protect and improve water quality, and improve local water security by reducing dependence on imported water. The first Request for Proposals of 10 million dollars is scheduled for September 2004 will be directed at planning projects for up to \$500,000. Proposals will be due in November. Subsequently, the balance of the IRWM will be directed at implementation projects in January 2005. The guidelines will be posted for a 30-day review and comment in July 2004 on the DWR and SWRCB websites:

SWRCB - <http://www.swrcb.ca.gov/funding/irwmgp/index.html>

DWR - <http://www.grantsloans.water.ca.gov>

##### 5. Power Washing Discharge by the City of San Diego (*Stacey Baczkowski*)

During the Public Forum on June 10, 2004, Mr. Marvin Winters expressed his concern regarding the City of San Diego's (City) enforcement of the municipal storm water permit as it relates to power washing. He also referred to a complaint he submitted to the Regional Board regarding a City employee's failure to prevent wash water from power washing activities from entering the storm drain. The June, July, and September 2003 Executive Officer's Reports have previously addressed power washing issues with the City.

On April 7, 2004, Mr. Winters observed and photographed a City employee power washing the parking lot at the Palm Ridge Neighborhood Park. Wash water from this activity was discharged to the storm drain. The City employee did not have recovery equipment onsite and made no attempt to prevent wash water from entering the storm drain. Upon receipt of Mr. Winters' complaint and photographs, the Regional Board issued a Notice of Violation (NOV) and 13267 directive to the City. The NOV was issued for failure to comply with section B.1 of Order No. 2001-01. The 13267 directive was issued to determine which City departments used power washing equipment, had appropriate recovery equipment, and received appropriate staff training.



The City submitted the required technical report on May 10, 2004. Based on the information in the report, only two of the eight City departments had written best management practices (BMPs) and/or procedures for power washing activities. Moreover, the written procedure for the Park and Recreation Department incorrectly states that wash water can be discharged to storm drains if filter fabric and gravel bags are placed over storm drains in the Downtown Enhancement Area. This is in direct contravention of section B.1 of Order 2001-01. Other City departments have relied on verbal instruction and could provide no documentation of who was trained and if procedures were consistent with Order 2001-01. The City's Storm Water Department is planning to revise the Park and Recreation Department BMP manual and conduct training for other City departments using the attached fact sheet.

Subsequent to the June 10 Board meeting, Mr. Winters reported another discharge by a City employee. On June 15, 2004, Mr. Winters observed a City employee using a power scrubber in the concourse area at 202 C Street. The equipment had water reclamation capabilities but was not working due to grates in the concourse area. Wash water was discharged to the storm drain through the grates. The Regional Board issued an NOV to the City for this discharge and for failure to implement an effective program.

The City's Storm Water staff have issued violations to the City departments responsible for the Palm Ridge and 202 C Street discharges.

The Regional Board will continue to assess the City's compliance with section B.1 of Order 2001-01 through inspections, response to complaints, and discussions with the City.

6. Comments Sent to State Board on Proposed Exception to the 2001 California Ocean Plan for Scripps Institution of Oceanography (*Sabine Knedlik*) (*Attachment B-6*)

On July 22, 2004, the State Water Resources Control Board (State Board) will consider a resolution approving an exception to the 2001 California Ocean Plan for the University of California, Scripps Institution of Oceanography. The San Diego Regional Water Quality Control Board submitted a comment letter on June 21, 2004 in support of the proposed State Board action (letter attached). The exception would allow this Regional Board to consider Scripps Institution of Oceanography's request for renewal of their NPDES Permit, Order No. 99-83, to continue discharging wastewater into the San Diego Marine Life Refuge Area of Special Biological Significance. If State Board grants the exception, Scripps Institution of Oceanography will have to comply with several terms and conditions that are listed in the State Board's Initial Study. The terms and conditions include increased effluent and receiving water monitoring and storm water management and will have to be incorporated into the NPDES permit renewal. If State Board does not grant the exception, Order No. 99-83 cannot be renewed.

7. Duke Energy, South Bay Power Plant – Status of NPDES Permit Renewal (*Hashim Navrozali*)

The tentative NPDES renewal permit (tentative Order No. R9-2004-0154) for the Duke Energy, LLC, (Duke Energy), South Bay Power Plant (SBPP), in Chula Vista, was made available for public review and comment on June 25, 2004. A copy of the tentative Order was mailed to governmental agencies and a number of interested parties. All other interested parties received notice that the tentative Order is available for review. Regional Board staff intends to bring tentative Order No. R9-2004-0154 before the Regional Board for its consideration at its August 11, 2004 meeting. A public notice was published in The San Diego Union-Tribune newspaper on June 25, 2004, notifying the public that the tentative Order is available and will be presented to the Regional Board at its August 11, 2004 meeting. The tentative Order and Fact Sheet are available for review on the Regional Board's website.

The last day to submit written comments to the Regional Board office is July 28, 2004. Oral comments will be received by the Regional Board during the August 11, 2004 hearing. The written comment period of 33 days, ending on July 28, 2004, will provide the time needed to develop responses to comments on the tentative Order so that the written responses can be furnished to the Regional Board for review prior to the August 11, 2004 hearing.

Tentative Order No. R9-2004-0154 renews and updates NPDES Permit No. CA0001368 and supersedes the current NPDES permit, Order No. 96-05, in its entirety.

8. Southern California Wetlands Recovery Project (*Bruce Posthumus*)

The Southern California Wetlands Recovery Project (WRP) is a partnership of seventeen federal and state agencies, including the SDRWQCB, working cooperatively with local governments, businesses, non-profit organizations, and other stakeholders to acquire, restore, and enhance coastal wetlands and watersheds in southern California. (See <http://www.coastalconservancy.ca.gov/scwrp/index.html>.)

On behalf of WRP, Environment Now recently completed the "Regional Wetlands and Watershed Management Plan for Southern California (see <http://www.lasgrwc.org/WRP.htm>), which was funded by a SWRCB Proposition 13 grant. SDRWQCB took the lead in supporting grant funding for that project and the SDRWQCB (Debbie Woodward) managed the project contract.

WRP staffing is undergoing a transition. Joan Hartmann (Environment Now), who served as WRP Outreach Coordinator, has moved on. Trish Chapman, who has been serving as WRP project manager for the State Coastal Conservancy, will be taking a new assignment. Mary Small and Karen Bane will be taking over the WRP project manager role.

The next WRP Governing Board meeting is scheduled to coincide with the groundbreaking for the Bolsa Chica wetlands restoration project in Orange County. The

groundbreaking is expected to occur this fall, probably in October, but the date has not yet been set.

The WRP has held three symposia (in 2000, 2001, 2002) that brought together all the parts of the WRP (Governing Board, Wetland Managers Group, Public Advisory Committee, Science Advisory Panel, and county task forces) to discuss WRP activities and issues of concern. Although these conferences were well received, they required a very large amount of work. Because of the time commitment involved, no "WRP-only" symposium was held in 2003. Instead, WRP joined with the California Coastal Coalition (CalCoast), Society of Wetlands Scientists, and California Shoreline and Beach Preservation Association in holding the Headwaters to Ocean (H2O) conference (see <http://www.coastalconference.org/presentations.htm>). However, there is substantial interest in holding a WRP-only symposium at least every other year. Planning has begun for the next WRP symposium, which is tentatively scheduled for spring 2005, in conjunction with the next update of the WRP work plan.

SDRWQCB Chairman John Minan represents the SDRWQCB on the WRP Governing Board. Bruce Posthumus represents the SDRWQCB on the WRP Wetland Managers Group and the San Diego County and Orange County wetlands task forces.

#### 9. U.S. Navy Toxicity Study (Paul J. Richter)

The NPDES permit for the *U.S. Navy, Naval Base Point Loma Complex, San Diego County* (Order No. R9-2002-0002), adopted on September 11, 2002, requires that industrial storm water discharges achieve a toxicity survival rate of *90% survival, 50% of the time and not less than 70% survival, 10% of the time*. The toxicity limitation becomes an enforceable effluent limitation four years after adoption (September 11, 2006). During the first four years the limitation is a performance goal. The Order also allows the U.S. Navy to conduct a toxicity study on industrial storm water dischargers during the four years and to recommend an alternative toxicity limitation based on the results of the study. Subsequent NPDES permits adopted for the other U.S. Naval Base Complexes in the San Diego Region (including *Naval Base Coronado* and *Naval Base San Diego*) also have an identical toxicity limitation for storm water.

During the hearing to adopt tentative Order No. R9-2002-0002, the Regional Board questioned the basis for and the validity of the storm water toxicity limitation (i.e. *90% survival, 50% of the time*) contained in the tentative Order. The Regional Board added a provision to the Order that requires the U.S. Navy to conduct a study of the toxicity in storm water discharges from all areas of *Naval Base Point Loma Complex* where industrial activities take place and recommend a scientifically valid survival rate for acute exposure to discharges of storm water from industrial areas at the complex. Subsequent NPDES permits adopted for U.S. Naval Base Complexes in the San Diego Region also included the toxicity study requirement. Also, the renewal permits adopted for the three major shipyards (NASSCO, Continental Maritime, and Southwest Marine) operating in San Diego Bay included recommendations for the shipyards to participate in the Navy toxicity study.

By letter dated September 24, 2003 the Navy submitted a proposed study titled *Proposed Technical Approach to Evaluate Storm Water Toxicity*. In the proposed study, the Navy explained that it would conduct toxicity monitoring of industrial storm water discharges and the receiving waters near its facilities. By letter dated December 8, 2003 the U.S. EPA provided comments on the proposed study. The U.S. EPA's comments included: 1) the Navy needs to state the study objective clearly; 2) the need for a Quality Assurance Project Plan; 3) clarification of appropriate test methods and species; 4) use of a State certified laboratory; and 5) the necessity to include the basis for evaluation of data, statistical analysis, use of storm hydrographs, and modeling of the storm water discharges into the Bay.

By letter dated June 10, 2004, the Regional Board informed the U.S. Navy that the proposed study will not provide sufficient information for the consideration of modifications to the toxicity limitations in the NPDES permits. The Regional Board letter states that the study should include additional information regarding 1) the statistical reliability of the current and proposed toxicity standards, 2) the toxicity standard for discharges from locations that implement *best available technology economically achievable* (BAT) for toxic and non-conventional pollutants, and *best conventional pollutant control technology* (BCT) for conventional pollutants for undiluted industrial storm water discharges. The letter also requires a final report on the U.S. Navy toxicity study to be submitted to the Regional Board no later than January 11, 2006. As of June 28, 2004, the Regional board has not received a response to the June 10, 2004 letter from the Navy.

During the hearing on September 11, 2002, the Regional Board questioned whether or not the toxicity limitation was achievable. The toxicity survival rate of *90% survival, 50% of the time and not less than 70% survival, 10% of the time* is an achievable effluent limitation. The U.S. Navy conducts toxicity monitoring at its Graving Dock facility. A review of the results of storm water toxicity monitoring conducted at the U.S. Navy's Graving Dock facility during the April 2000 through February 2003 period indicated that the discharges of industrial storm water complied with the toxicity limitation during that period. A review of Regional Board compliance records shows that no violations of the toxicity limitations have been noted since February 2003.

### **PART C**

#### **STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION**

No items in Part C this month.